IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

Crl.MC.No. 3917 of 2006()

CRMP.3557/2006 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVUR

.....

PETITIONER: PETITIONER:

K.A.THOMSY,
KALLOOR HOUSE, VADKKUMPURAM,
CHENDAMANGALAM, N.PARAVUR.

BY ADV. SRI.LIJU. M.P
SRI.G.PADMARAJ

RESPONDENTS: RESPONDENT:

STATE OF KERALA,
REP.BY SUB INSPECTOR OF POLICE,
N.PARAVUR, REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3917 of 2006

Dated this the 29th day of November 2006

O R D E R

The petitioner is the accused in a crime in which two vehicles have been released to the petitioner on condition that he executes bonds with two sureties. The petitioner and the two sureties had executed the bond. Vehicles were released. To show their solvency, the sureties had produced their title deeds before the learned Magistrate. The title deeds are now said to be in the custody of the court.

2. The petitioner filed Annexure A application before the learned Magistrate. In that, he prayed that the documents produced by the sureties may be released to him. I am not satisfied about the legitimacy and maintainability of the prayer itself because the original title deeds produced by the sureties cannot obviously be released to the petitioner. Be that as it may, the learned counsel for the petitioner submits that that technicality need not stand in the way of considering the request as the sureties are prepared to file the necessary affidavits that in pursuance with the request made by the petitioner, the documents may be released to them. I reckon the application Annexure A as one made by the petitioner on behalf of the

sureties and the crux of the prayer is to release the original documents produced by the sureties to the sureties concerned.

3. The learned counsel for the petitioner submits that the sureties want the documents back not for dealing with the property in any objectionable manner but only for the purpose of production of the documents before certain other authorities. This has not been made clear in Annexure A. The sureties will be satisfied if the court considers their request and releases the documents to them on condition that they must produce it back within a stipulated time.

4. The prayer in this manner does not appear to have been made before the learned Magistrate. I am certainly satisfied that the impugned order in these circumstances be set aside and the learned Magistrate can be directed to dispose of Annexure A, that is Crl.M.P.No.3557/06 afresh, in accordance with law, on condition that the sureties file affidavits before the learned Magistrate within a period of ten days from this date, explaining the purpose of releasing the documents to them and undertaking to produce the documents back within a stipulated period, after accomplishment of the purpose for which release has been made.

5. In the result:

a) This Crl.M.C is allowed.

b) The impugned order is set aside.

c) The learned Magistrate is directed to dispose of Annexure A afresh. The sureties concerned shall file affidavits explaining the claims and incorporating the requisite undertaking within a period of ten days from this date.

6. The petitioner and the sureties shall appear before the learned Magistrate on 11/12/2006. The learned Magistrate shall consider the application afresh and pass appropriate orders within the further period of five days.

Hand over copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006